

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

MICHAEL CRAIG RUNNELS, §
§
Petitioner, § CIVIL NO. 2:15-CV-61
v. §
§
WILLIAM STEPHENS, §
§
Respondent. §

ORDER

Pending is Petitioner's Motion to Proceed *In Forma Pauperis* ("IFP") on appeal. (D.E. 24). The motion is **DENIED** as this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3) that the appeal is not filed in good faith.

A Memorandum and Recommendation ("M & R") was entered on June 15, 2015, recommending this case be dismissed. (D.E. 19). Petitioner, rather than filing objections to the M & R, filed a Notice of Appeal to the United States Court of Appeals for the Fifth Circuit appealing the M & R. (D.E. 21). However, the undersigned has not yet ruled on the M & R or entered a final judgment. As such, there is no final or otherwise appealable order for Petitioner to appeal at this time. 28 U.S.C. § 1291; Fed. R. Civ. P. 54(b); and 28 U.S.C. § 1292(a) and (b).

Based on this procedural history, the Court finds that good cause exists to extend Petitioner's deadline to file objections to Judge Libby's M & R. *See* Fed. R. Civ. P. 6(b)(1). The Court therefore **ORDERS** that Petitioner's objections, if any, to Judge Libby's M & R (D.E. 19) are due within fourteen days after the entry of this Order.

Although this Court has certified that the appeal is not taken in good faith under 28 U.S.C. § 1915(a)(3) and Fed. R. App. P. 24(a)(3), Petitioner may challenge this finding pursuant to *Baugh v. Taylor*, 117 F.3d 197 (5th Cir. 1997), by filing a separate motion to proceed IFP on appeal with the Clerk of Court, U.S. Court of

Appeals for the Fifth Circuit, within 30 days of this Order. The cost to file a motion to proceed on appeal with the Fifth Circuit is calculated below, and if Petitioner moves to proceed on appeal IFP, the prison authorities will be directed to collect the fees as calculated in this Order.

Michael Runnels, Appellant, shall pay **\$505.00**, the appellate filing fee, in monthly installments to the United States District Court as provided in 28 U.S.C. § 1915(b)(1). The Texas Department of Criminal Justice – Criminal Institutions Division shall deduct 20% of each deposit made to the Petitioner's inmate trust account and forward payments to the United States District Court on a regular basis provided the account exceeds \$10.00 until Petitioner has paid the total filing fee.

Petitioner shall sign all consent and other documents required by the agency having custody of Petitioner to authorize the necessary withdrawal from the Petitioner's inmate trust account.

If Petitioner moves to proceed on appeal IFP, the Clerk shall mail a copy of this Order to the inmate accounting office or other person(s) or entity with responsibility for collecting and remitting to the District Court interim filing payments on behalf of prisoners, as designated by the facility in which the prisoner is currently or subsequently confined.

SIGNED this 21st day of July, 2015.



Hilda Tagle
Senior United States District Judge